

AMENDED IN SENATE MAY 1, 2006  
AMENDED IN SENATE APRIL 17, 2006

**SENATE BILL**

**No. 1803**

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**Introduced by Senator Florez**

February 24, 2006

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An act to ~~amend Section 10001 of~~ *add Section 10020 to* the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1803, as amended, Florez. Public utilities: municipal corporations: ~~wireless local and wide area network communications~~ *means of communication: Attorney General representation.*

Existing law authorizes any municipal corporation to acquire, construct, own, operate, or lease any public utility. For these purposes, "public utility" means to supply the municipal corporation alone or together with its inhabitants, or any portion of its inhabitants, with water, light, heat, power, sewage collection, treatment, or disposal for sanitary or drainage purposes, transportation of persons or property, means of communication, or means of promoting the public convenience.

This bill would ~~replace the term "power" with "electricity" and would provide that the term "means of communication" includes a communications system employing wireless local, metropolitan, or wide area network communication technology utilizing certain industry standards~~ *require the Attorney General, upon the request of a municipal corporation, to represent the municipal corporation in any action that could result in a limitation on a municipal corporation's right to provide communications services pursuant to the above-described provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. *The Legislature finds and declares all of the*  
2 *following:*  
3     (a) *The Federal Communications Commission (FCC) has*  
4 *established as a national goal, the timely deployment of reliable*  
5 *and ubiquitous broadband services to all Americans.*  
6     (b) *The February 2005 report of the Wireless Broadband*  
7 *Access Task Force to the FCC found that wireless broadband*  
8 *plays a critical role in ensuring that broadband reaches rural*  
9 *and underserved areas, where it often is the most efficient means*  
10 *of delivering these services.*  
11     (c) *The report of the Wireless Broadband Access Task Force*  
12 *to the FCC found that there are approximately 40 wireless*  
13 *community networks in the United States, and that many of these*  
14 *communities have deployed unique applications of wireless*  
15 *broadband in order to effectively serve and integrate*  
16 *underserved individuals and groups within their communities.*  
17     (d) *The report of the Wireless Broadband Access Task Force*  
18 *to the FCC concluded that ensuring that all citizens have access*  
19 *to broadband services is of increasing importance to local*  
20 *governments, that a number of municipalities have undertaken*  
21 *various approaches to promote wireless broadband deployment,*  
22 *including facilitating access to municipally owned facilities,*  
23 *cooperating in joint ventures with commercial operators, and*  
24 *establishing municipally-owned and operated networks.*  
25     (e) *Division 5 (commencing with Section 10001) of the Public*  
26 *Utilities Code authorizes a municipal corporation to acquire,*  
27 *construct, own, operate, or lease any public utility. Pursuant to*  
28 *this authorization, municipalities in California have the right to*  
29 *acquire, construct, own, operate, or lease a means of*  
30 *communication, including a communications system employing*  
31 *wireless local, metropolitan, or wide area network*  
32 *communications technology utilizing Institute of Electrical and*  
33 *Electronics Engineers standard 802.11, also known as Wi-Fi®,*  
34 *or standard 802.16, commonly know as Worldwide*  
35 *Interoperability for Microwave Access or WiMAX, or both.*

1 (f) In California, no entity has a right of first refusal to  
2 provide wireless local communications services in the place of a  
3 municipality.

4 (g) Several California municipalities are planning and  
5 deploying facilities to provide communications service using a  
6 variety of new technologies, including wireless broadband.

7 (h) It is a matter of statewide public interest to preserve the  
8 right of California municipalities to provide communications  
9 service.

10 SEC. 2. Section 10020 is added to the Public Utilities Code,  
11 to read:

12 10020. The Attorney General shall, upon the request of a  
13 municipal corporation, represent the municipal corporation in  
14 any action that could result in a limitation on a municipal  
15 corporation's right to provide communications services pursuant  
16 to this division.

17 SECTION 1. ~~Section 10001 of the Public Utilities Code is~~  
18 ~~amended to read:~~

19 ~~10001. "Public utility" as used in this article, means the~~  
20 ~~supply of a municipal corporation alone or together with its~~  
21 ~~inhabitants, or any portion thereof, with any of the following:~~

22 ~~(a) Electricity.~~

23 ~~(b) Heat.~~

24 ~~(c) Light.~~

25 ~~(d) (1) Means of communication.~~

26 ~~(2) For purposes of this subdivision, "means of~~  
27 ~~communication" includes a communications system employing~~  
28 ~~wireless local, metropolitan, or wide area network~~  
29 ~~communications technology utilizing Institute of Electrical and~~  
30 ~~Electronics Engineers standard 802.11, also known as Wi-Fi®, or~~  
31 ~~standard 802.16, commonly known as Worldwide Interoperability~~  
32 ~~for Microwave Access or WiMAX, or both.~~

33 ~~(e) Means of promoting the public convenience.~~

34 ~~(f) Sewage collection, treatment, or disposal for sanitary or~~  
35 ~~drainage purposes.~~

36 ~~(g) Transportation of persons or property.~~

37 ~~(h) Water.~~